

From: Chapman, Apple
Sent: Thursday, May 09, 2019 02:25 PM
To: Mia, Marcia; Sorrell, Virginia
Subject: RE: Storage vessels

Thank you.

I have two questions about the attachment.

On the first page (e)(3) should it be:

For storage vessels subject to and complying with a legally and practicably enforceable limit

Also, I think we should include citizens right to enforce as well in the definition of "Legally enforceable limit" -

I will send the email to Patrick once I hear back from you on this.

Marcia, should I copy your management?

Apple Chapman
Deputy Director, Air Enforcement Division
Office of Civil Enforcement
(202) 564-5666 or (202) 841-6076

From: Mia, Marcia
Sent: Wednesday, May 8, 2019 4:54 PM
To: Sorrell, Virginia <Sorrell.Virginia@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>
Subject: RE: Storage vessels

Here is a "clean" markup to send with the email to Patrick. << File: SV Language - exemption option_Clean_OECA_markup.docx >>

We should forward the email to Amy Branning.

Marcia B Mia
Air Branch
Office of Compliance
2227A WJCS
U.S. Environmental Protection Agency
202-564-7042

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From: Sorrell, Virginia

Sent: Wednesday, May 08, 2019 4:12 PM

To: Mia, Marcia <Mia.Marcia@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>

Subject: RE: Storage vessels

Marcia, what you did looks fine to me. I am not sure where things are in the document in terms of track changes or what you are wanted deleted or accepted, so I'd rather you did that so that I am not inadvertently messing it up.

Virginia Sorrell

Air Enforcement Division

Office of Civil Enforcement

U.S. Environmental Protection Agency

Phone: 303-312-6669

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From: Mia, Marcia

Sent: Wednesday, May 8, 2019 1:32 PM

To: Sorrell, Virginia <Sorrell.Virginia@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>

Subject: RE: Storage vessels

I accepted most. Some of your questions are directly from NSPS 0000a, so I suggest we keep them as our starting point. I added a suggested solution to the record for the life of the unit. If you are okay, you delete the comments and Apple can send to Patrick. << File: SV Language - exemption option_mbm_vas_2.docx >>

Marcia B Mia

Air Branch

Office of Compliance

2227A WJCS

U.S. Environmental Protection Agency

202-564-7042

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From: Sorrell, Virginia

Sent: Wednesday, May 08, 2019 2:50 PM

To: Chapman, Apple <Chapman.Apple@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>

Subject: RE: Storage vessels

Attached are my suggested changes and comments to the reg language Marcia worked up. Let me know if questions or if I should set up a call, thanks, Ginny << File: SV Language - exemption option_mbm_vas.docx >>

Virginia Sorrell
Air Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
Phone: 303-312-6669

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From: Chapman, Apple
Sent: Wednesday, May 8, 2019 11:58 AM
To: Mia, Marcia <Mia.Marcia@epa.gov>; Sorrell, Virginia <Sorrell.Virginia@epa.gov>
Subject: RE: Storage vessels

Thanks, Marcia.

I can add this red line to the document you sent. I am trying to finish up something else right now so I may not get an email out to Patrick with the attachment until tomorrow morning, but I will try by COB today.

Apple Chapman
Deputy Director, Air Enforcement Division
Office of Civil Enforcement
(202) 564-5666 or (202) 841-6076

From: Mia, Marcia
Sent: Wednesday, May 8, 2019 11:50 AM
To: Sorrell, Virginia <Sorrell.Virginia@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>
Subject: RE: Storage vessels

I meant to add this to the intro language at (e)(3):

For storage vessels subject to and complying with a legally and practicably enforceable limit in an operating permit

Marcia B Mia
Air Branch
Office of Compliance
2227A WJCS
U.S. Environmental Protection Agency

202-564-7042

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From: Mia, Marcia

Sent: Wednesday, May 08, 2019 11:46 AM

To: Sorrell, Virginia <Sorrell.Virginia@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>

Subject: RE: Storage vessels

Attached, pls find my suggested edits to the email. Apple and I teed up the issue with Patrick yesterday. He was pondering if the exemption would hamstring us beyond how we are hamstrung now - his inclination that it would not (i.e. we aren't enforcing 0000a for the most part anyway, and we will continue to enforce federally enforceable permits). He asked that we try to find out which states don't have federally enforceable limits. I plan to ask that today on the EEPI call and we can also raise tomorrow on the O&G Rule workgroup call.

Also, find my attempt to spell out what we consider minimum elements. I used 0000a and the SV alert and a couple of concepts from the New Owner Audit << File: Patrick_email_SV_exemption.docx >> << File: SV Language - exemption option_mbm.docx >> .

Marcia B Mia

Air Branch

Office of Compliance

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U.S. Environmental Protection Agency

202-564-7042

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From: Sorrell, Virginia

Sent: Tuesday, May 07, 2019 7:13 PM

To: Mia, Marcia <Mia.Marcia@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>

Subject: RE: Storage vessels

Draft email - please add to or edit as you see fit:

Patrick,

OAQPS staff has informed us that, absent further discussions with you, their management is not interested in pursuing a tank battery approach to applicability. This may be due, in part, to OGC's opinion that we would need to do a parallel proposal (rather than just final rule) on a tank battery applicability determination if we wanted to set

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the applicability threshold at something higher than 6 tpy for the battery. Instead, OAQPS intends to proceed with a OOOOa single storage vessel applicability test that uses our proposed approach for storage vessels, unless the storage vessel is controlled so as to meet an exemption from rule applicability. We think the pros and cons of this approach are as follows:

Pros:

1. This avoids the precedent of endorsing an averaging approach across a larger process grouping to determine NSPS applicability of a single piece of equipment in that grouping.
2. "Maximum average daily throughput" would be clarified in a way that is consistent with our precedence on potential emissions calculations.
3. OAQPS may be open to OECA suggestions as to what type of storage vessel control requirements should be mandated to qualify for the exemption.

Cons:

1. We miss an opportunity to move the applicability determination to a tank battery, which would be more rational and simplified for industry, states, and EPA.
 - a. Any operators with storage vessels not meeting the exemption will need to compile single storage vessel data for applicability determinations, which is more onerous (and less environmentally or operationally relevant) than compiling data for an overarching tank battery.
 - b. Applicability determinations for storage vessels not qualifying for the exemption will remain arbitrary in terms of equivalent storage capacity in differing vessel size configurations potentially getting different applicability results despite equivalent emissions potential.
2. While the current ambiguity in the applicability determination will be largely cleared up by finalization of our proposal as to "maximum average daily throughput," operators are likely to attempt to claim the exemption if we create one, and it is unlikely that we will be able to identify and clearly articulate minimum criteria for the exemption that will be readily determinable and enforceable. In essence, we may wind up just shifting the ambiguity to a new part of the applicability determination for almost all storage vessels (e.g., currently almost all storage vessels claim they are under 6 tpy, but following addition of the exemption, the new goalpost would be to claim the exemption).
 - a. Clear articulation of minimum criteria for the exemption will be extremely difficult because we know from our enforcement efforts that atmospheric storage vessel controls are not something that can just be passively installed to achieve consistent performance (e.g., these controls are not like screwing a standard size bull plug into an open-ended line). Design, operation, maintenance, monitoring, and recordkeeping are all important components to ensuring that controls for atmospheric storage vessels perform effectively.
 - b. Apart from the requirements in OOOOa (developed through notice and comment rulemaking), it is unclear what lesser design, operation, maintenance, monitoring, and recordkeeping requirements EPA could identify that would be likely to assure equivalent effective performance of controls.
 - c. Similar to the Once In Always In proposed definition of "practicably enforceable," we may be left with language requiring that the control requirement must include "appropriate monitoring, recordkeeping and reporting...sufficient to demonstrate compliance with the emissions limitations of each pollutant." For controls on an atmospheric storage vessel, where gaskets and seals are "wear" equipment that need to be actively maintained and repaired or replaced to ensure emissions are routed to the control device and where emissions escaping through leaks or venting from underdesigned control systems are not continuously monitored or quantified, "appropriate" may wind up being a very subjective standard.
 - d. Operators claiming the exemption are likely to be doing so on the basis of state limits (e.g., permit, SIP, etc.) that were promulgated by states, in part, to allow operators to avoid OOOOa applicability. If EPA then takes a position with an operator

that a state-established limit does not meet the exemption criteria, the promulgating state may take the opposite position or, at the very least, may not appreciate EPA's conclusion.

e. State limits may not be federally enforceable, in which case EPA would be foregoing federal NSPS applicability on the basis of state-only requirements. In the event of lax enforcement by a state with pollution impacting downwind states, this may pose federal challenges.

f. Absent clear articulation of sufficient minimum criteria for the exemption, controls used to qualify for the exemption may offer substantially less environmental benefit than would applicability of, and compliance with, 0000a for those storage vessels. In fact, it is hard to envision how design, operation, maintenance, monitoring, and recordkeeping exemption criteria less stringent than 0000a requirements could offer equivalent benefits.

We continue to recommend that the most clear and simplistic approach to storage vessel applicability determinations would be to move to a tank battery and just apply a higher tpy threshold if the policy decision was to limit rule applicability. As compared with the existing rule, this approach seems unlikely to simplify or clarify applicability determinations since it is likely to resolve one ambiguity while opening up another. Having said that, it at least avoids having a precedent of averaging across equipment for applicability determinations.

Please let us know if you would like to discuss the tank battery approach further with OAQPS management, or if you would like us to move forward with OAQPS' current approach of maintaining single storage vessel applicability determinations, with addition of an exemption for controlled vessels.

Thanks,

Ginny

Virginia Sorrell

Air Enforcement Division

Office of Civil Enforcement

U.S. Environmental Protection Agency

Phone: 303-312-6669

This email, including attachments, may contain material that is confidential, privileged, and/or attorney work product.

From: Mia, Marcia

Sent: Monday, May 6, 2019 11:06 AM

To: Sorrell, Virginia <Sorrell.Virginia@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>

Subject: RE: Storage vessels

I took a stab at fleshing the write-up out. Not pretty and I ran out of time, but we can work from it for the call today. << File: SV Language - exemption option_mbm.docx >>

Ginny, if you have time to redline that would be great too.

Marcia B Mia

Air Branch

Office of Compliance

2227A WJCS

U.S. Environmental Protection Agency

202-564-7042

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-----Original Appointment-----

From: Mia, Marcia

Sent: Monday, May 06, 2019 10:43 AM

To: Mia, Marcia; Sorrell, Virginia; Apple Chapman

Subject: Storage vessels

When: Monday, May 06, 2019 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 1-855-564-1700; 1107219; Option 2: 234567

From: Marsh, Karen

Sent: Monday, May 06, 2019 10:37 AM

To: Mia, Marcia; Sorrell, Virginia

Subject: Storage vessels

Attachments: SV Language - exemption option.docx

Marcia and Ginny,

Attached is the working draft for the storage vessel applicability language incorporating an exemption for vessels with legally and practically enforceable permits. Ginny - Marcia and I spoke about the direction I've been given and if there are continued concerns, Peter is happy to discuss further with Patrick. One piece Marcia and I discussed that is not included is recordkeeping. Feel free to include comments or edits in redline. I'm happy to discuss further if you guys have additional questions after you speak with each other.

Karen

Karen R. Marsh, PE

US EPA, OAQPS, Sectors Policies and Programs Division

Fuels and Incineration Group

109 TW Alexander Drive, Mail Code E143-05

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Research Triangle Park, NC 27711

Direct: (919) 541-1065; email: marsh.karen@epa.gov